

LEASE AGREEMENT  
BETWEEN  
MONTGOMERY COUNTY, MARYLAND  
AND  
YESHIVA OF GREATER WASHINGTON, INC.  
DATED

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## LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease"), entered into this 27<sup>th</sup> day of June, 2006 by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic ("the County") and Yeshiva of Greater Washington, Inc. ("the Lessee" or "Yeshiva") (the County and the Lessee together the "Parties").

### WITNESSETH:

#### BACKGROUND

WHEREAS, the County is the owner of a former public school site known as the Montgomery Hills Junior High School, 2010 Linden Lane, Silver Spring, Maryland, 20910, which was declared surplus by the Board of Education and the State Board of Public Works and conveyed by the Board of Education to the County by deed recorded among the Land Records for Montgomery County, Maryland in Liber 4813 at Folio 269 (the "Deed"). A copy of the Deed is attached to this Lease as Exhibit A and incorporated as if fully set forth; and

WHEREAS, the Lessee is a Maryland Corporation that provides private education to the Jewish community; and

WHEREAS, the County and Lessee are parties to a Lease-Purchase Agreement for the former Belt Junior High School in Wheaton ("Belt"); and

WHEREAS, the Superintendent of Schools and the Montgomery County Board of Education have requested the return of the Belt property in order to open a second middle school in the Wheaton High School cluster and have proposed, to that end, that Lessee move to Montgomery Hills under a lease agreement similar to their current Belt agreement and that Montgomery County Public Schools will fund improvements to Montgomery Hills which are substantially the same in scope and materials as the Yeshiva made at Belt as more particularly set forth in that certain Standard

Form of Agreement Between Owner and Contractor dated March 28, 2003, by and between Montgomery County Public Schools ("MCPS") and Lessee (the "Construction Contract", attached at Exhibit B). Montgomery Hills is scheduled to be substantially complete by July 2004, and the newly renovated Belt school would be scheduled to open in September 2005; and

WHEREAS, the County Council has approved Emergency Bill 20-02, dated March 18, 2003, which waives certain requirements of Executive Regulation 4-99AM, and authorizes the Executive to enter into this Lease;

NOW THEREFORE, in consideration of the terms and conditions of this Lease, including the payment of rent by the Lessee to the County as provided below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. PREMISES: The County does hereby lease and demise unto Lessee the Property described as the Montgomery Hills Junior High School, 2010 Linden Lane, Silver Spring, Maryland including the building, recreation areas, athletic fields, walkways, play areas, parking lot, driveway and land contiguous to the building, as outlined in red on Exhibit C attached and incorporated as if fully set forth (the "Leased Premises").
2. TERM: The initial term hereby created shall commence on the Commencement Date (as defined in the next sentence) and shall end on June 30, 2053, followed by four (4) consecutive ten (10) year option periods. The "Commencement Date" of this Lease shall be the date of execution hereof, as set forth on page 1 of this Lease. The first lease year shall commence on the Commencement Date and shall end on June 30, 2004. Each lease year thereafter shall consist of twelve (12) consecutive months commencing on the next succeeding July 1. Lessee and the County acknowledge that this Lease is contingent upon the approval of the Board of Public Works of the State of Maryland, and that the County will therefore submit a copy of this Lease to the Board of Public Works for approval. If said approval by the Board of Public Works is not granted, then this Lease and any subleases entered into by the Lessee shall be null and void as of

the date of action by the Board of Public Works. Each option period shall automatically commence upon the expiration of the previous initial term or option period, as the case may be, unless Lessee sends the County written notice of its intention not to have the term automatically renewed, which notice must be sent no later than one hundred eighty (180) days before expiration of the then applicable lease term. Terms and conditions shall remain the same during the option periods.

3. USE OF THE PREMISES: The Leased Premises shall be used for private educational use, and for daycare and worship services, as uses incidental, related and accessory to the main use, which incidental uses shall include a private educational day camp and a private religious education center and for the County's use as set forth in Articles 7 and 8, hereof. Lessee agrees that its use of the Leased Premises, including any use of the premises by sublessees, shall conform fully with all applicable zoning ordinances, and will be subject to all rules, regulations, statutes, permits or any other requirements for the use and occupancy of the Leased Premises as established by all appropriate authorities having jurisdiction. Lessee agrees that all uses of the Leased Premises shall generate a total occupancy not to exceed 750 during the normal course of business. This includes student enrollment, teachers, other staff and reasonable nominal numbers of daily visitors. Special events which bring large numbers of visitors to the facility will be coordinated through the community liaison committee set up in Article 38 below, with the goal of mitigating the impact of traffic and parking on the adjacent community.
4. PHYSICAL IMPROVEMENTS: In addition to the improvements set forth in Exhibit B, the Lessee shall cause and be responsible for the following improvements to be made to the Leased Premises by the end of the sixth month of the first lease year:
  - A. Installation of a sidewalk next to the driveway from Brookeville Road into the rear parking lot of the Leased Premises.
  - B. Shade trees planted in or around the parking lot, but not in such a way as to reduce the number of parking spaces available to serve the Leased Premises.
  - C. Installation of 4 to 5 foot Leyland Cypress trees to form a screen along Brookeville Road from the end of the former tennis court to the overgrown area next to the entry drive.



- D. One or more types of screening, buffering or landscaping will be installed between the Rookwood Road driveway and the rear of the adjacent homes.

5. RENT: RENT ADJUSTMENTS

- A. The annual rent shall be FORTY THOUSAND AND 00/100 (\$40,000.00) DOLLARS, payable in twelve equal installments, during each lease year, of THREE THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$3,333.33) each, subject to 5B below.
- B. Notwithstanding the foregoing, the first monthly payment hereunder shall be due upon the Lessee's occupancy and commencement of instruction at the Property. All payments thenceforth shall be due and payable on the first day of each month during the lease term, at: Montgomery County Government, Leasing Management, P.O. Box 62077, Baltimore, Maryland 21264-2077.
- C. To the annual rent payable by Lessee during the previous lease year shall be added that sum representing one hundred percent (100%) of the amount resulting after (1) multiplying said annual rent payable during the previous lease year by a fraction, the numerator of which shall be the index now known as the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price index for All Urban Consumers, National Average, All Items (1984 = 100), or its successor, for the month two months prior to the last month of the previous lease year and denominator of which shall be said index for the month two months prior to the first month of the previous lease year and (2) subtracting from such product the annual rent payable during the previous lease year. For instance, for a lease commencing in July, 2001, the first annual calculation would be as follows: (current annual rent x (April 2001 CPI U / May 2000 CPI U)) - current annual rent = CPI increase. In any event, and notwithstanding the results obtained

through the above calculation, the Lessee's adjusted annual rent will not be less than 103%, nor more than 105% of the rent paid by Lessee the previous year.

6. TERMINATION: This Lease shall automatically terminate at the end of the term, subject to the option periods set forth in Article 2, unless sooner terminated as provided below:

- A. This Lease and all rights and obligations hereunder may be terminated by the County, for any reason, upon written notice to the Lessee of five (5) years, during the initial term, and option periods, according to the following schedule:

<u>Notice Given</u>	<u>Termination Effective</u>
During 13 <sup>th</sup> lease year	End of 18 <sup>th</sup> lease year
During 18 <sup>th</sup> lease year	End of 23 <sup>rd</sup> lease year
During 23 <sup>rd</sup> lease year	End of 28 <sup>th</sup> lease year
During 28 <sup>th</sup> lease year	End of 33 <sup>rd</sup> lease year
During 33 <sup>rd</sup> lease year	End of 38 <sup>th</sup> lease year
During 38 <sup>th</sup> lease year	End of 43 <sup>rd</sup> lease year
During 43 <sup>rd</sup> lease year	End of 48 <sup>th</sup> lease year
During 48 <sup>th</sup> lease year	End of 53 <sup>rd</sup> lease year
During 53 <sup>rd</sup> lease year	End of 58 <sup>th</sup> lease year
During 58 <sup>th</sup> lease year	End of 63 <sup>rd</sup> lease year
During 63 <sup>rd</sup> lease year	End of 68 <sup>th</sup> lease year
During 68 <sup>th</sup> lease year	End of 73 <sup>rd</sup> lease year
During 73 <sup>rd</sup> lease year	End of 78 <sup>th</sup> lease year
During 78 <sup>th</sup> lease year	End of 83 <sup>rd</sup> lease year
During 83 <sup>rd</sup> lease year	End of 88 <sup>th</sup> lease year
During 88 <sup>th</sup> lease year	Natural termination of lease

No written notice of termination shall be delivered by the County to the Lessee before the end of the thirteenth lease year, nor during any interim year of the schedule, nor shall any termination become effective prior to the end of the eighteenth lease year, nor during any interim year.

- B. If the termination of the Lease is due to a request by Montgomery County Public Schools (herein MCPS) to retrieve and reuse the premises for public educational purposes, then before the notice of such a termination may be given to Lessee (which termination is subject to the schedule in 6A above, and which notice is subject to the five year notice period in Article 6A above), the County Council must approve a Capital Improvement Project for the reuse of the school.
- C. If this Lease is terminated under paragraphs A or B above, and the Leased Premises are being used as a private school, the County agrees that under no circumstances will the Lessee be required to surrender the Leased Premises during the normal and usual school year, defined to be September 1 to July 1.
- D. This Lease and all rights and obligations hereunder may be terminated by the Lessee without fee, for any reason, at any time after the completion of the renovations pursuant to the Construction Contract (as defined in the fourth recital of this Lease), upon written notice to the County of one year.
- E. The Parties recognize that Yeshiva surrendered a valuable asset by agreeing to forego their right to purchase the former Belt Junior High after investing considerable resources to improve the physical plant and establish a private school there. Yeshiva has also given up its ability to claim rent credits and capital reimbursement under this Lease. In consideration thereof the County agrees that in the event the County terminates this Lease as provided in this Article 6, the County shall pay to Lessee a Termination Fee. The Termination Fee will be a) the then current value of the Montgomery Hills

improvements PLUS b) two and one half (2.5) times the then current land value of the Montgomery Hills site (value of land to be based on being in educational use) MINUS c) the amount set forth in Exhibit D that corresponds to the calendar year in which the lease is being terminated.

- F. The value of Montgomery Hills, site and improvements, for the purposes of determining the Termination Fee shall be determined as follows:

The County and Lessee shall each select a licensed real estate appraiser having experience in the valuation of improved real estate in the Washington, D.C. metropolitan area, and who is a member of the American Institute of Real Estate Appraisers (each certified as an "MAI appraiser"). The two MAI appraisers so selected shall choose a third MAI appraiser within fifteen (15) days of their selection, and notify the County and Lessee of their choice. Each party shall bear the cost of its MAI appraiser, and shall share equally the cost of the third MAI appraiser. If the two MAI appraisers selected by the Parties cannot agree on the choice of a third MAI appraiser and notify the Parties as to their choice within said fifteen (15) day period, then the Parties shall request that the President of the Montgomery County Board of Realtors designate a third MAI appraiser within fifteen (15) days of the parties' request to do so. The Fair Market Value shall be the average of the fair market values as submitted by each of the three appraisers. Prior to the commissioning of the three appraisals, the County and Lessee shall agree on a set of written instructions to be delivered to each of the three appraisers, which instructions will be followed by the appraisers in the performance of their work. Said instructions shall include, among other things, that the appraisals will be based on the use of the Premises as an educational facility.

7. COMMUNITY USE OF THE FACILITY: Lessee shall make a room available in the Leased Premises (after Lessee's occupancy and commencement of instruction at the Property) as a community meeting place for use by the North Woodside-Montgomery Hills and Linden Civic Associations each calendar quarter on a weekday evening to be agreed upon.

8. USE OF PLAY AREAS AND FIELDS:

All outdoor recreation and athletic fields will remain available during the school year, on a continuing basis, for use (when not being used by Lessee) by the community after 5:00 P.M., Monday through Thursday, after 3:30 P.M. Daylight Saving Time or 2:30 P.M. Standard Time on Friday, and all day Saturday and Sunday, and on days when school is closed, subject to variance by the Park and Planning Commission and/or Community Use of Public Facilities (CUPF). When school is not in session, but summer camp is being held, community use will begin at 3:30 P.M. Monday through Friday, and all day Saturday and Sunday. During the interim periods between the end of school and the beginning of summer camp and the end of summer camp and the beginning of school, the community may use the fields and recreation areas at any time. Lessee will work jointly with the Maryland National Capital Park and Planning Commission (MNCPPC), the Montgomery County Department of Recreation, and CUPF with regards to Lessee's use and scheduling of the outdoor recreation areas. Lessee will have the exclusive use of the outdoor recreation and athletic fields until 5:00 P.M. Monday through Friday. In consideration therefore, Lessee agrees to maintain said outdoor recreation and athletic fields to at least the same standards used by the MNCPPC or Recreation, as revised from time to time, for maintaining outdoor recreation and athletic fields. Lessee agrees at all times to keep all areas, including those as to which Lessee has non-exclusive use, mowed, trees and shrubs pruned as necessary, equipment in good repair and such areas clean and neat in appearance, except for wear and tear incurred as a result of excessive or inappropriate use (e.g., play while fields are wet), and except for excessive trash and debris left on the Property by users other than Lessee. Lessee shall notify County promptly when excessive or inappropriate uses are taking place. In the event Lessee desires use of these areas during the times reserved for the community, Lessee will schedule such use with the MNCPPC, CUPF or Recreation, as appropriate, complying with the scheduling agency's regulations and procedures.

9. PARKING: Lessee shall be entitled to exclusive use of the parking facilities which are a part of the Leased Premises. Parking for Lessee and any other occupants of the building, their staff, clients and guests must be fully accommodated on the Leased Premises and must be confined to

the surfaced parking areas in existence, or planned for construction, as of the date of execution of this Lease. The above notwithstanding, and subject to all approvals required by all applicable laws, regulations, ordinances and codes, and subject to all of the provisions of this Lease, Lessee may expand the parking facilities to support the Leased Premises, without the consent of the County if the expansion costs less than \$100,000 or with the express written consent of the County if the expansion will cost more than \$100,000, which consent shall not be unreasonably withheld. Any expansion of parking to support the Leased Premises shall be limited to the area labeled Future Parking and indicated in hatch marks on Exhibit C. Lessee shall, at Lessee's risk and expense, be responsible for the ongoing maintenance, cleaning, and repair of said parking facilities. The Lessee shall grant access to said parking facilities to the County's representatives at all times, or to community users of the premises during times of community use as set forth in Articles 7 and 8 hereinabove. Lessee agrees to make repairs as necessary to maintain the parking area in a safe state and as necessary for compliance with any laws, including, but not limited to the Americans with Disabilities Act [42 U.S.C. 12101, et. seq.]

10. CAPITAL IMPROVEMENTS:

A. Capital Improvement Definitions:

1. Elective Capital Improvements are improvements or additions made by Lessee which :
  - a. Increase the value of the premises to the County;
  - b. Are not required to protect or preserve the building structure or systems; and
  - c. Are not mandated by County, State, or Federal law, code or regulation.
2. Non-Elective Capital Improvements are improvements or additions made by Lessee which:
  - a. Increase the value of a closed school to the County;
  - b. Are required to protect and preserve the building structure or systems; or
  - c. Are mandated by County, State, or Federal code, law and/or regulations.
  - d. By way of examples, and not intended to be a complete list, non-elective capital improvements include but are not limited to work such as roof replacement, boiler replacement, HVAC system replacement, replacement of failing exterior structural walls, electrical system replacement, conversion from oil fired boilers

to gas heat, asbestos removal, underground storage tank removal, window replacement (excepting window pane replacements), and ADA mandated improvements.

3. Qualified Capital Improvements are Elective or Non-Elective Capital Improvements, costing more than \$100,000, that have been reviewed and approved in writing by the County and that are specifically identified in the County's written approval as Qualified Capital Improvements.

**B. Approval Process for Non-Elective and Elective Capital Improvements:**

1. Lessee must obtain the prior written consent of the County for all capital improvements costing more than \$100,000, which consent shall not be unreasonably withheld. Lessee must submit to the County complete plans, drawings, and specifications at least 30 days prior to beginning work. Lessee's submittal must be of sufficient detail and content to permit the County to fully evaluate Lessee's proposed project. In the event the proposed capital improvements are Elective Capital Improvements, two copies of the submission must be sent by Lessee to the County. The County must coordinate review with MCPS of any proposed improvement that may affect the future educational use of the Leased Premises. The County will respond in writing to Lessee's submission within 30 days of the receipt of all required documentation.
2. In the event of an emergency need for a capital improvement over \$100,000, Lessee will notify the County immediately, and the County will respond within a reasonable and appropriate period of time, as dictated by the emergency situation.
3. The County has the right to inspect all work and materials before, during and after construction on any improvement which it has approved.
4. The total cost of all capital improvements will be borne solely by Lessee. Lessee will be solely responsible for obtaining any and all permits, approvals and licenses from all

appropriate County, State, and/or municipal authorities having jurisdiction over such work.

5. Lessee must comply with all applicable zoning, land use, health and safety regulations. This includes, specifically and without limitation, Section 59-G-2.19 of the Montgomery County Code (2004), as may be amended, which requires site plan review for any expansion of an existing private school building that would exceed the lesser of (a) 7,500 square feet, or (b) a 15% increase over the size of the building existing on February 1, 2001, and for the installation of any portable classrooms within the premises for a period longer than one year.

11. OPERATING EXPENSES:

- A. The Lessee will be fully responsible, at the Lessee's sole risk and expense, to perform all maintenance, repair, and/or replacement which isn't deemed to be a capital improvement within the Leased Premises which the County determines in its sole discretion is required to protect the Leased Premises from damage or deterioration.
- B. The Lessee assumes, at the Lessee's sole risk and expense, full responsibility for the maintenance, repair, and upkeep of the entire leased premises and all improvements thereon, including but not limited to the repair and/or replacement of all building elements and equipment, fixtures, roof, windows, floors, walls, electrical systems, heating and air conditioning systems, plumbing systems, outdoor areas, outdoor fields and playgrounds, shrubbery and landscaping.
- C. The Lessee is fully responsible at the Lessee's sole risk and expense, for all operating expenses for the Leased Premises, including, but not limited to, utility bills and expenses, janitorial services, trash removal, pest control, snow removal, grounds maintenance, preventive maintenance, day to day minor and major maintenance, tree removal, fence repair and/or replacement, and repair or replacement of playground equipment, except to the extent that such maintenance, repair or replacement arise from the community's or



County's grossly negligent or willful acts or omissions, in which case the County shall be responsible for such maintenance, repair or replacement.

12. FIXTURES AND EQUIPMENT: All items which are attached to the building, or are a part of the building's systems at the time the building is delivered to Lessee, shall remain with the building and shall be delivered to Lessee along with the building. All moveable partitions, trade fixtures, floor coverings or equipment installed within the Leased Premises at Lessee's expense shall remain the property of Lessee and may be removed by Lessee at the expiration or other termination of this Lease. Lessee shall, however, repair any damage caused by reason of said removal. Any personal property of Lessee remaining within the Leased Premises for thirty (30) days after expiration or other termination of this Lease shall become property of the County. The County shall dispose of any such property in the manner it deems appropriate.

13. CONDITION OF PREMISES: Lessee accepts the Leased Premises in "as is" condition, together with the improvements to be made under the Construction Contract. Lessee agrees to maintain the Leased Premises, including all improvements therein, in good condition and state of repair throughout the term of this Lease and any extension thereof. For purposes of maintenance and upkeep, the Leased Premises shall include the building, walkways, sidewalks, parking lot, driveway, play areas, athletic fields and all other grounds that are part of the leased premises. Lessee agrees to keep the Leased Premises clean and neat in appearance at all times, and to keep grass trimmed, trees treated and shrubbery pruned as necessary to maintain them in good condition and appearance. Lessee agrees to make repairs as necessary for the safe use of the Leased Premises, including changes necessary to comply with law, including, but not limited to changes, if required, to comply with the Americans With Disabilities Act [42 U.S.C. 12101], et. seq.

14. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE:

- A. Lessee agrees to obtain and maintain, at its own cost and expense, during the full term of this Lease, and any extension thereof, a policy of general liability insurance with a minimum limit of liability of \$1,000,000 (one million dollars) for bodily injury and property damage including fire legal liability issued by an insurance company licensed

in the State of Maryland and acceptable to the County. At any time during the Lease Term, the County may require Lessee to obtain and maintain additional insurance by sending written notice of the increase in required insurance to Lessee not less than thirty (30) days prior to the date that the increased insurance must be in effect. Such additional insurance shall be customary for the uses specified in Article 3 of this Lease. Insurance costs for such additional insurance shall also be borne by the Lessee.

- B. Lessee agrees to obtain and maintain, during the term of the Lease, and any extension thereof, a policy of workers compensation and employers liability coverage in the amount of \$100,000 (each person) for bodily injury by accident or by disease and \$500,000 for bodily injury by accident or by disease (policy limits).
- C. Lessee agrees to obtain and maintain, during the term of the Lease, and any extension thereof, an All Risk Property policy covering 100% replacement cost of the contents of the Leased Premises.
- D. Lessee agrees to obtain and maintain, during the construction to be performed under the Construction Contract, a Builder Risk policy.
- E. The general liability policy must list Montgomery County, Maryland as an additional insured; and the All Risk Property policy and Builder's Risk policy must name Montgomery County, Maryland as a Loss Payee. All policies must provide to the County sixty (60) days prior written notice of cancellation. In the event of a loss, if Lessee decides to rebuild as provided in paragraph 17A1 herein, then the County shall endorse all insurance proceeds checks to Lessee.
- F. The Lessee shall, within thirty (30) days following execution of this Lease deliver to the County a certificate(s) of insurance evidencing the coverage(s) required above. The certificate(s) must be issued to Montgomery County, Maryland, Department of Public Works and Transportation, Office of Real Estate, 101 Monroe Street, 10<sup>th</sup> floor,

Rockville, Maryland 20850, Attn: Director, or to such other address specified in writing by the County. Lessee has the obligation to file up-to-date Certificates of Insurance with the County.

- G. Lessee will indemnify the County and save it harmless from and against any and all claims, action, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence upon or at the Leased Premises, or the occupancy or use by Lessee of the Leased Premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, guests or employees, excepting claims arising out of the acts, omissions or negligence of the County, the County's agents, contractors and employees. Lessee shall indemnify the County against any penalty, damage or charge incurred or imposed by reason of Lessee's violation of any law, regulation or ordinance in its use and occupancy of the leased premises. In case the County shall, without fault on its part, be made a party to any litigation commenced by or against Lessee, then Lessee shall protect and hold the County harmless at Lessee's sole cost and expense.

15. LESSEE'S INDEMNIFICATION OF COUNTY: Lessee agrees to indemnify and hold harmless and pay for the defense of the County from any and all claims of liability, actions, damages and expenses, including, but not limited to, reasonable attorneys fees and litigation costs, arising out of or related to Lessee's use or possession of the premises, including play fields and play areas, from any breach of this Lease by Lessee, or from any claim, action, damage, liability or expense occasioned wholly or in part by any negligent or willful act or omission of Lessee, its agents, contractors, guests or employees, except such negligence as may be occasioned by the acts or omissions of the County, the County's employees, agents and contractors, including County's use as outlined in Articles 7 and 8 above. Lessee further specifically agrees to hold the County harmless and pay for the defense of the County from any claim of liability made in connection with any construction or installation of equipment within the Leased Premises, notwithstanding that any such construction or equipment may or may not be deemed to be a part of the Leased Premises hereinabove described. In the event that Lessee must incur attorney's fees on behalf of the County,

then the attorney shall be selected by Lessee, however, said attorney shall also be acceptable to the County in its reasonable judgment.

16. RESPONSIBILITIES OF LESSEE: Lessee covenants and agrees as follows:

- A. Lessee shall not strip, overload, damage or deface the Leased Premises, hallways, stairways or other approaches thereto or the fixtures therein or used therewith, nor suffer or permit any waste in or upon said Leased Premises, except as otherwise agreed to by the County in connection with tenant improvements to the Property or as otherwise preformed in connection with Lessee's maintenance, repair and replacement obligations set forth in this Lease.
- B. Lessee shall not keep gasoline or other flammable material or any explosive within the Leased Premises which will increase the rate of fire insurance on the Leased Premises beyond the ordinary risk established for the type of operations described in Article 3 hereof. Any such increase in the insurance rate due to the above, or due to Lessee's special operations within the Leased Premises, shall be borne by Lessee. Lessee shall not willfully do any act or thing in or about the Leased Premises which may make void or voidable any insurance on the Leased Premises, and Lessee agrees to conform to all reasonable rules and regulations established from time to time by the County, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.
- C. Lessee shall not use or allow to be used the Leased Premises or any part thereof for any illegal, unlawful or improper purpose.
- D. Lessee acknowledges that all responsibilities of Lessee relating to the use or misuse of the Leased Premises and anything therein shall be construed to include use or misuse thereof by Lessee's agents, employees, patrons, guests and sublessees, but specifically excluding use or misuse by the County, the County's employees, agents and contractors, and by community users of the Property.

- E. Lessee shall comply with all reasonable rules and regulations with regard to the use of the Leased Premises that may be from time to time promulgated by the County, and any violation of said rules and regulations shall be deemed to constitute a violation of this Lease, providing the County has delivered such rules and regulations in writing to Lessee. It is understood that such rules and regulations shall not interfere or prevent the intended uses of the demised premises as set forth in this Lease. Notice of any rules and regulations regarding the use of the Leased Premises will be given to Lessee and will become a part of this Lease Agreement, as an attachment, as promulgated. Notwithstanding the foregoing, to the extent any such rules and regulations for the use of the Leased Premises conflict with any terms of this Lease, the terms of this Lease shall control. The Parties agree that County laws and Executive Regulations are not considered to be rules and regulations under this provision.

17. DESTRUCTION OF PREMISES:

- A. In the event that the Leased Premises are destroyed or damaged from whatever cause so as to render all or a substantial portion of the premises unfit for the purposes for which the premises were leased, then, in such event:
1. Lessee shall have the right but not the obligation to repair said destruction or damage, and shall be entitled to the proceeds of all applicable insurance policies for such repair.
  2. In the event Lessee elects not to repair said destruction or damage, then (a) Lessee shall provide the County with all information in Lessee's possession regarding repair of the Premises and insurance proceeds available for such purposes; (b) the County shall have the right but not the obligation to repair said destruction or damage, and (c) the County shall be entitled to the proceeds of all applicable insurance policies for such repair.

3. Lessee shall have sixty (60) days from the date of casualty in which to give the County written notice of Lessee's election to repair, and, if Lessee fails to give such notice in a timely manner or elects not to repair, the County shall have sixty (60) days from the later of (a) the provision to the County of the information described in Article 17(A)(2) above, or (b) the earlier of (1) the date of Lessee's notice electing not to repair, or (2) if Lessee fails to send such notice timely, the date Lessee's notice was due, in which to give Lessee written notice of the County's election to repair ("County's Notice Period").
- B. In the event neither the County nor Lessee elects to repair such damage as set forth above, then the insurance proceeds shall be paid first to the Lessee in the amount of the value of the leasehold interest for the remainder of the term and then any remaining proceeds shall be paid to the County.
  - C. If, in the opinion of either Party, reasonably exercised, the destruction or damage, if not repaired, prevents the intended use of the Premises, as specified in Article 3, either Lessee or the County shall each be entitled to terminate this Lease by written notice to the other within thirty (30) days after the expiration of the County's Notice Period. In the event neither elects to terminate this Lease and there exists unrepaired damage or destruction to the Premises, rental payments shall be reduced by a percentage corresponding to the portion of the Premises, if any, to which Lessee is denied normal use and occupancy.
  - D. In the event that either Party elects to undertake the repair of the Premises as provided above, the Party so electing shall do so within a reasonable period of time from the date of destruction or damage and this Lease shall not be affected, except that, during reconstruction, rental payments shall be reduced by a percentage corresponding to the portion of the Premises to which Lessee is denied normal use and occupancy.

- E. In the event that the Parties do not repair the Leased Premises as hereinabove provided, Lessee shall not be entitled to any compensation or payment from the County for the value of any remaining term of the Lease.

18. DEFAULT:

- A. Lessee shall be considered in default of this Lease upon the occurrence of any of the following:
1. Failure to perform any monetary obligation of this Lease and the continuance thereof for more than ten (10) days after written notice from the County specifying said failure.
  2. Failure to perform any non-monetary term, covenant or condition of this Lease and the continuance thereof for thirty (30) days after written notice from the County specifying said failure, or such greater time as may be required to cure, in County's reasonable judgment, with Lessee acting diligently, or such lesser time as may be required to cure, in the County's reasonable judgment, in the event of an emergency.
  3. The commencement of any action or proceeding for the dissolution or liquidation of Lessee, or for the appointment of a receiver or trustee of Lessee's property, and the failure to discharge any such action within thirty (30) days.
  4. The making of any assignment for the benefit of Lessee's creditors.
  5. The abandonment of the Leased Premises by Lessee.
- B. In the event that the Lessee shall be found in default as hereinabove stated, then, and in every such case thenceforth, at the option of the County or the County's assigns, the Lessee shall be subject to one of the following penalties, depending upon the nature and severity, in the County's sole judgment, of the default:
1. Monetary Default

- a. Any payment not received by the County more than ten (10) days from the date it becomes due and payable shall be assessed interest at the rate of fifteen percent (15%) per annum until paid.
- b. Should any payment remain unpaid for more than thirty (30) days after it is due, the County shall have the right to terminate this Lease, recover possession of the Premises, and pursue any other legal remedies available to the County under the laws of the State of Maryland.
- c. Any late penalty imposed under this paragraph will be payable to the County as additional rent hereunder and must be paid at the time that the overdue payment is paid to the County by Lessee.

2. Non-monetary Default

- a. Lessee shall pay, as additional rent hereunder, a sum equal to five (5%) of the current monthly rental amount for each month after the cure period during which the default continues to exist.
- b. Lessee's right of possession shall end, the Lease shall be terminated by the County, and the County may proceed to recover possession under the laws of the State of Maryland.
- c. Any late penalty imposed under this paragraph will be payable to the County as additional rent hereunder.

C. The County's acceptance of additional rent as provided in Article 18 (B) (1) above will not constitute a waiver of the County's right to terminate the Lease or to recover possession in a subsequent month during the Lease Term if the default continues or an additional event of default occurs.

19. EMINENT DOMAIN:

- A. The County shall receive any award for the fair market value of the land upon which the improvements are located and for the improvements.
- B. Nothing contained hereinabove shall be construed to preclude Lessee from



claiming, proving and receiving, in a separate claim filed by Lessee against the authority exercising the power of eminent domain, such sums to which the Lessee may be entitled as compensation, provided that such a separate claim does not interfere with or reduce the County's award.

- C. The County or Lessee may terminate this Lease upon exercise of eminent domain by a condemning authority that renders the Leased Premises unfit for the use and purpose by Lessee set forth in Article 3 herein. In the event that the Lease is terminated because the County exercises its power of eminent domain, the Parties agree that the Fair Market value of Lessee's leasehold interest in the Property is the Termination Fee set out in Article 6(E), below. The Parties agree that in the event that the County exercises its power of eminent domain against the Property during the term of this Lease, the Parties will jointly file a "friendly" condemnation proceeding in the Circuit Court of Montgomery County, Maryland and a Consent Inquisition authorizing the payment of the Termination Fee as required under Paragraph 6(E), and that the Lessee's interest in the Property will be terminated at the time that the Consent Inquisition is docketed by the Circuit Court. The valuation of the leasehold interest is based on the value obtained by the County for the Lessee's voluntary surrender of Lessee's option to purchase other property as described in Paragraph 6(E).

20. ASSIGNMENT AND SUBLEASING:

- A. Lessee will not assign or sublease any part of the Leased Premises without the County's express written consent. The County's written consent shall be obtained in the following manner:
1. Lessee will submit to the County a copy of the proposed sublease, a description of the activities and uses proposed by sublessee, proof of the sublessee's ability to pay rent, adequately maintain its premises and otherwise comply with all terms

and conditions of this Lease, and any other information pertinent to the proposed sublessee's use and occupancy as may be requested by the County.

2. The County will provide copies of the above information to the Montgomery County Council, the Montgomery County Planning Board and MCPS and will solicit and consider their comments on the proposed sublease.
3. The County will make a decision on the proposal and will respond in writing to the Lessee not later than thirty (30) days after receipt of all information required by Article 20A(1) hereinabove, or any additional information that may be otherwise requested by the County.
4. The County will not approve any sublease, and will withdraw an earlier approval, if the County determines that the sublessee's proposed use is likely to result in a materially greater negative impact to the surrounding neighborhood, or if it finds that sublessee's performance under the sublease following the County's approval is resulting in a substantially greater negative impact to the surrounding neighborhood.

B. Subleasing or assignment by Lessee shall be permitted only under the following terms and conditions:

1. Lessee will not, under any circumstance, be permitted to sublease more than fifty per cent (50%) of the net useable square footage of the building without the express written consent of the County, which consent shall not be unreasonably withheld. For purposes of this Article 20 (B) (1), the space leased to the Torah School shall be deemed part of the Leased Premises.
2. Subleasing or assignment of any portion of the Leased Premises by Lessee will have as its primary goal the recovery of reasonable operating and rent expenses incurred by Lessee in the operation, maintenance and administration of the Leased Premises. Lessee agrees that any rental amounts charged to sublessees or assignees will be limited to the sub lessees' or assignees' prorated share of actual operating, maintenance and administrative expenses incurred by Lessee, plus an amount equal to the same square foot rate of rent paid by Lessee to the County.

3. The County will not approve any assignment, sublease or transfer of any right or interest in any portion of the Leased Premises if such an assignment, sublease or transfer results in any profit or financial gain in excess of the permitted costs and expenses as set forth hereinabove. Under no circumstance shall any sublease result in a profit for sublessor. The County will require written evidence of compliance hereunder.
  4. In the event the County approves a sublease, Lessee remains responsible for the payment of all monies due to the County and for the performance of all obligations required of the Lessee under this Lease.
  5. All sublessees or assignees must conform to all applicable zoning and land use requirements, to all applicable use and occupancy regulations, laws or statutes, to the use restrictions contained in this Lease, to any restrictions that have been imposed by the Montgomery County Council on the use of the premises, and to all of the terms and conditions of this Lease. No sublease shall cause the total occupancy of the Leased Premises to exceed the limit contained in Article 3.
  6. In the event the County determines that Lessee is receiving rental payments from sublessees in excess of the costs permitted herein, Lessee shall pay all of the rents received over and above the allowable costs to the County, as additional rent.
- C. The County and the Lessee hereby agree that the Torah School is an approved sublessee.
21. ACCESS: Lessee shall allow the County and the County's employees or agents to have access to the Leased Premises at all reasonable times and after reasonable notice, during normal working hours for the purpose of inspection, or, at any time in the event of fire or other property damage, or for the purpose of performing any work required to be performed by the County, or which the County considers necessary or desirable, or for any other purpose pursuant to the reasonable protection of the Leased Premises. Lessee shall not alter or change the exterior locks installed on the premises without the County's prior written consent, which consent shall not be unreasonably withheld, and in the event of an approved change, shall

provide the County with keys to the facility within twenty-four hours, said keys to be used by the County to obtain access to the facility in emergency situations.

22. SURRENDER OF POSSESSION: Lessee covenants, at the expiration or other termination of this Lease, to remove all goods and effects from the Leased Premises not the property of the County, and to yield up to the County the Leased Premises and all keys, locks and other fixtures connected therewith (except trade fixtures and other fixtures belonging to Lessee), in good repair, order and condition in all respects, reasonable wear and use thereof and damage by fire or other casualty and damage from any risk with respect to which Lessee is not herein expressly made liable excepted (provided that insurance proceeds from fire or other casualty or damage, if not used to restore the Leased Premises, have been paid to the County, assuming additional restoration is necessary).
23. HOLDOVER: In the event that the Lessee shall continue to occupy said Leased Premises or any part thereof after the conclusion of the term of this Lease, the tenancy thus created shall be deemed to be upon a month-to-month basis and may be terminated by the County giving the Lessee not less than thirty (30) days' written notice, to expire on the day of the month from which the tenancy commenced. During any month-to-month tenancy, both Parties shall continue to observe all agreements and covenants contained in this Lease. Lessee shall continue to pay monthly rental at a rate of 150% of the monthly rent rate in effect thirty (30) days prior to the expiration of the then effective lease term or extension for the first six (6) months, and 200% of the monthly rent rate in effect thirty (30) days prior to the expiration of the then effective lease term or extension every month thereafter.
24. THE COUNTY'S TITLE AND COVENANT OF QUIET ENJOYMENT: The County covenants that it has full right and power to execute and perform this Lease, and that it will put Lessee into complete and exclusive possession of the Leased Premises. The County covenants and agrees that, if Lessee shall perform all the covenants, conditions, and agreements herein contained to be performed on Lessee's part, Lessee shall at all times during the term of this Lease have the peaceable and quiet enjoyment and possession of the Leased

Premises for the purposes leased unless the County terminates this Lease as provided in this Lease and the laws and regulations governing the Reuse of Closed Schools in Montgomery County, Maryland.

25. COMPLIANCE WITH LAWS: It is understood, agreed and covenanted by and between the Parties that Lessee, at Lessee's expense, will promptly comply with, observe and perform all of the requirements of all of the statutes, ordinances, rules, orders and regulations now in effect or hereafter promulgated whether required by the Federal Government, State of Maryland, Montgomery County, or any local government with jurisdiction over the Leased Premises.
26. BENEFIT AND BURDEN: The provisions of this Lease shall be binding upon, and shall inure to the benefit of the Parties and each of their respective successors, assigns or representatives.
27. DISPUTES: The County and Lessee agree that any dispute concerning a question of fact arising under this Lease which is not resolved by agreement of the parties shall be decided by the Chief Administrative Officer of Montgomery County, or his designee, who shall notify the parties in writing of the determination made. The Lessee and the County shall be afforded an opportunity to be heard and offer evidence in support of their respective positions. Pending final decision of a dispute hereunder, Lessee and the County shall proceed diligently with the performance of all provisions under this Lease Agreement. The decision of the Chief Administrative Officer or his designee shall be final and conclusive. This Article 27 does not preclude consideration of questions of law by a court of competent jurisdiction in connection with the aforesaid decisions. In lieu of having the Chief Administrative Officer consider a dispute, Lessee, at its expense, may elect to have an independent mediator (selected jointly by the County and Lessee) consider the dispute. The mediator's decision shall be final and conclusive.

28. WAIVER: No waiver of any breach of any covenant, condition or agreement herein contained shall operate as a waiver of the covenant, condition or agreement itself or of any subsequent breach thereof.
29. NON-DISCRIMINATION: Tenant agrees to comply with the non-discrimination in employment policies in County contracts as required in Sections 11B-33 and 27-19 of the Montgomery County Code (2004), as amended, as well as all other federal, state and local laws, rules and regulations regarding employment discrimination. By signing this Lease, the Tenant assures the County that in accordance with applicable law, it does not, and agrees that it shall not engage in any employment discrimination in violation of the above sections of the Montgomery County Code as well as any other federal, state or local laws, rules and regulations. The Landlord assures the County that in accordance with applicable law; it does not, and agrees that it will not discriminate in any manner on the basis of race, color, religious creed, sex, martial status, national origin, ancestry, disability, sexual orientation or genetic status.
30. CONTRACT SOLICITATION: Lessee represents that Lessee has not retained anyone to solicit or secure this Lease from Montgomery County, Maryland, upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. Lessee is responsible for paying any Broker's fees or commissions for any Broker with whom Lessee has any contract or agreement and for paying all of Lessee's attorneys' fees in connection with the negotiation of this Lease.
31. PUBLIC EMPLOYMENT: Lessee understands that unless authorized under Sections 11B-52 and Chapter 19A of the Montgomery County Code (1994), as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a Montgomery County employee for employment contemporaneous with his or her County employment.

32. FORCE MAJEURE: Neither party shall be deemed in default with respect to the performance of any of the terms, covenants and conditions of this Lease if same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or upsurged power, sabotage, inability to obtain any material or service, through natural or other cause beyond the control of either party; provided, however, that this provision shall not excuse any non-payment of rent. For purposes of this provision, lack of funds shall not be considered a cause beyond the control of a party.
33. RESIDENT AGENT: The Resident Agent for the Lessee is:  
Jeffrey Lee Cohen  
5410 Edson Lane, Suite 200  
Rockville, Maryland 20852
34. PROHIBITION OF HAZARDOUS SUBSTANCES: The Lessee agrees not to store or bring hazardous substances onto the Leased Premises, except for customary office supplies and cleaning supplies, which may be stored or used in the Leased Premises provided such storage and use complies with all applicable laws. The Lessee shall be responsible for any personal injuries or personal and real property damage as a result of any hazardous substance being brought on the premises by the Lessee, its agents, contractors, employees or guests.
35. MAILING NOTICES: All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail or by nationally recognized overnight carrier and shall be deemed to be effective when received or refused by the addressee.  
Notices to the respective parties shall be addressed as follows:

LESSEE:

Yeshiva of Greater Washington, Inc.  
2010 Linden Lane  
Silver Spring, MD 20910

With a copy to:

THE COUNTY:

MONTGOMERY COUNTY, MARYLAND  
Office of Real Estate  
101 Monroe Street, 10<sup>th</sup> floor  
Rockville, MD 20850

With a copy that does not constitute notice to:

Jeffrey Lee Cohen  
5410 Edson Lane, Suite 200  
Rockville, MD 20852

Office of the County Attorney  
101 Monroe Street, Third Floor  
Rockville, MD 20850

36. INDEMNIFICATION BY COUNTY: Notwithstanding anything in this Lease to the contrary, any indemnification given by the County is subject to the notice provisions and the liability and damage caps stated in the Local Government Tort Claims Act. Md. Cts. & Jud. Proc. Code Ann. §§5-301, et seq., as amended from time to time. This indemnification is not intended to be a waiver of governmental immunity by the County, and is not intended to create any rights or causes of action in third Parties. The County shall not be liable for damages or injury occasioned by the acts or omissions of Lessee or its agents, or failure to comply with its obligations under this Lease.
37. GENERAL PROVISIONS: This Lease is governed by the Laws of the State of Maryland. Should any provision of this Lease be found invalid or unenforceable no other unrelated provision will be affected and will continue in full force and effect.
38. COMMUNITY LIAISON: The Lessee shall meet with members of the surrounding communities on at least a quarterly basis, for the purpose of establishing a neighborly relationship. At a minimum, the community shall be represented by the Boards of the North Woodside-Montgomery Hills and Linden Civic Associations, or their designees. This liaison group will monitor traffic impact on the neighborhood and discuss possible solutions to be implemented. Lessee shall keep the community abreast of any activity planned at the school that could substantially impact the communities' use of the facility or the quality of life in the neighborhood. Lessee shall respond to community complaints or concerns in an expeditious manner. Lessee understands that the County is currently conducting a traffic study in the immediate neighborhood which may result in changes to local traffic patterns. Lessee shall work cooperatively with the neighborhood and all interested parties on the matter of future traffic improvements; including the possible closure of Rookwood Road, the possible



consolidation of access with Woodlin Elementary School and the possible reconfiguration of the Seminary/Linden/Brookville intersection.

39. TRANSPORTATION MANAGEMENT PLAN: The Lessee shall provide a Transportation Management Plan that applies to the operation of the Leased Premises. The plan is subject to review and modification from time to time as deemed necessary by the County. The Transportation Management Plan is attached at Exhibit E and is subject to review and comment by the Planning Board during their review of the lease under Article 6.17 of Executive Regulation 4-99AM. The plan will accomplish the following:
- A. Establish an operating plan for both routine school activities and special events that clearly identifies on-site access, circulation and parking rules and regulations;
  - B. Identify means by which vehicular traffic associated with school dismissal activities will be contained on site;
  - C. Reduce the reliance on single-occupant vehicles; and
  - D. Establish regular monitoring activities to facilitate identification and implementation of operational access and circulation improvements.

The Lessee shall work with the Liaison Committee established in Article 38 to identify accountability measures in the event of the failure of Lessee to comply with the Transportation Management Plan.

Lessee agrees that all staff, parents and students will be required to access the Rookwood Road entry only via Linden Lane to Second Avenue.

Lessee shall monitor and regulate the queuing of vehicles along the east side of the Property such that the queuing does not extend onto Second Avenue or Rookwood Road east of Second Avenue. Lessee agrees that the failure to monitor and regulate the queuing of vehicles along the east side of the Property such that the queuing extends onto Second Avenue or Rookwood Road east of Second Avenue shall constitute a non-monetary default under Article 18. Moreover, if such queuing extends onto Second Avenue or Rookwood Road east of Second

Avenue more than three times in any two month period, then, in addition to any penalties described in Article 18, Lessee shall be subject to a fine of \$5,000 and the County shall have the right to close the Rookwood Road entry to the Property.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have caused this agreement to be properly executed.

WITNESS:

LESSEE:

Yeshiva of Greater Washington, Inc.

By: James Wallace

By: Jeffrey Lee Cohen  
Jeffrey Lee Cohen, President  
Date: 12/27/05

STATE OF MARYLAND

SS:

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 27th day of December, 2005, before the subscriber, a Notary Public in the aforementioned State and County personally appeared

Jeffrey Lee Cohen who did acknowledge the foregoing instrument to be his act.

IN TESTIMONY WHEREOF, I have affixed my official seal.

My commission expires on

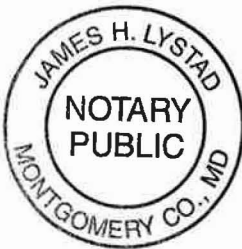
10/1/07

NOTARY PUBLIC

James H. Lystad

JAMES H. LYSTAD

Please print name



JAMES H. LYSTAD  
Notary Public, State of Maryland  
County of Montgomery  
My Commission Expires October ~~20, 2006~~

1, 2007

WITNESS:

By: Cindy Sullivan

THE COUNTY:  
MONTGOMERY COUNTY, MARYLAND

By: Bruce Romer  
Bruce Romer

Title: Chief Administrative Officer

Date: 6-27-06

STATE OF MARYLAND

SS:

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 27 day of June, 2006, before the subscriber, a Notary Public in the aforementioned State and County personally appeared the person known to me to be Bruce Romer, Chief Administrative Officer of Montgomery County, Maryland, and that he, being authorized by Executive Order to do so, executed the foregoing Lease in his capacity as Chief Administrative Officer.

IN TESTIMONY WHEREOF, I have affixed my official seal.

My commission expires on

January 1, 2008

NOTARY PUBLIC

Cindy Sullivan  
Cindy Sullivan  
Please print name

APPROVED AS TO FORM & LEGALITY  
OFFICE OF THE COUNTY ATTORNEY

By: Green D. Basaman

RECOMMENDED

By: Cynthia A. Breneman  
Cynthia Breneman, Director  
Office of Real Estate

Date: 12/23/2005

Date: 12/23/05

R:\Projects\Closed Schools\Yeshiva - MHJHS\Montgomery Hills Lease Final rev. 9 Clean copy .doc

NO FEE - MONTG. CO. MD.

LIDER 4813 FOLIO 269

CLERK'S OFFICE  
MONTG. CO., MD.

(Montgomery Hills)

1976 JUL 19 PM 3:33

D E E D

THIS DEED made this 9<sup>th</sup> day of July  
1976, by and between the BOARD OF EDUCATION OF MONTGOMERY COUNTY,  
MARYLAND, GRANTOR, and MONTGOMERY COUNTY, MARYLAND, GRANTEE, here-  
inafter called the "COUNTY".

W I T N E S S E T H:

That in consideration of the sum of Ten Dollars (\$10.00)  
and other good and valuable consideration, the receipt of which is  
hereby acknowledged, the said GRANTOR does hereby grant, convey in  
fee simple, and release unto the COUNTY, a body corporate, its  
successors and assigns, all those pieces or parcels of ground and  
other rights situate and lying in Montgomery County, Maryland,  
and more particularly described as follows:

FEE TAKING

Beginning at a monument in the southerly right  
of way line of Linden Lane (80' wide), said  
point being the northwesterly corner of Lot 8,  
Block "G," Montgomery Hill, as recorded in Plat  
Book 4 at Plat Number 381 among the Land Records  
of Montgomery County and running thence with the  
rear or westerly line of said Block "G" and Block  
"C" -

1. South 10°57'20" East 713.19 feet to a monument  
found at the southwesterly corner of Lot 2, Block  
"C," said southwesterly corner being a point in  
the rear or northerly line of Block "F" as shown  
on a plat of subdivision entitled "Section 2,  
North Woodside" as recorded in Plat Book 3 as  
Plat Number 297 among the aforesaid Land Records  
and running thence with said northerly line of  
Block "F" -

2. South 78°59'45" West 475.50 feet to a monument  
set; thence leaving said northerly line of Block  
"F" and running with the common lines of the Woodlin  
Elementary School site

3. North 19°17'23" West 390.85 feet to a monument  
set; thence

4. North 41°48'13" West 141.41 feet to a monument  
set; thence

5. North 41°48'13" West 34.20 feet to a point in  
the southeasterly right of way line of Brookeville  
Road thence running with said right of way line

6. North 47°53'00" East 484.37 feet to a point,  
said point being the point of intersection of said  
southeasterly right of way of Brookeville Road and  
the aforesaid southerly right of way line of Linden  
Lane and running thence

Exhibit A

7. South 81°13'00" East 220.68 feet to the point of beginning

The area described containing 8.6783 acres more or less. This description was prepared by Associated Engineers, Inc., 8555 Sixteenth Street, Silver Spring, Maryland 20910, February 14, 1976.

TOGETHER WITH ALL the rights, privileges, easements, improvements, appurtenances and advantages thereto belonging or appertaining.

TO HAVE AND TO HOLD the above granted property and rights unto the said COUNTY, its successors or assigns in fee simple.

AND the said GRANTOR does hereby covenant that he will warrant specially the property hereby conveyed, and that he will execute such further assurances of said lands as may be requisite.

WITNESS his hand and seal the day and year first above written.

ATTEST:

BOARD OF EDUCATION OF  
MONTGOMERY COUNTY, MARYLAND

*Charles M. Bernardo*  
CHARLES M. BERNARDO

By *Verna M. Fletcher* (SEAL)  
President  
VERNA M. FLETCHER

STATE OF MARYLAND :  
COUNTY OF MONTGOMERY : ss:

I hereby certify that on this 9th day of July, 1976, before the subscriber, a Notary Public in and for the afore-said State and County, personally appeared *Verna M. Fletcher* personally well known to me (or satisfactorily proven) to be the President of the Board of Education of Montgomery County, Maryland, whose name is signed to the foregoing instrument, and, being authorized to do so, did acknowledge the same to be the act and deed of said corporation.

My Commission Expires:

July 1, 1978

*Helen S. Joseph*  
Notary Public  
HELEN S. JOSEPH

I hereby certify that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that the within instrument was prepared under my supervision.

*RE Frederic*  
RE FREDERIC

10/15/94

All taxes and assessments certified to the  
County of Montgomery, Conn.  
for the year 1994.  
The undersigned, being duly sworn, do  
certify that the above is a true and  
correct copy of the original as the same  
exists in the records of the  
County of Montgomery, Conn.  
and that the same are correct and  
true copies of the original as the same  
exists in the records of the  
County of Montgomery, Conn.  
and that the same are correct and  
true copies of the original as the same  
exists in the records of the  
County of Montgomery, Conn.

DEANETTE M. BROWN, CLERK, REG. 0019.  
DEPARTMENT OF REVENUE

*Deputy Clerk*

THAT I CERTIFY THIS PROPERTY IS WITH DUTY  
TRANSFERRED ON THE MONTGOMERY COUNTY  
ASSESSMENT BOOKS.

*16524*  
TRANSFER CLERK DIVISION OF ASSESSMENTS

March 28, 2003



## EXHIBIT B

AIA Document A101

# Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a  
STIPULATED SUM

1987 EDITION

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.*

*The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.*

This document has been approved and endorsed by The Associated General Contractors of America.

## AGREEMENT

made as of the 28th day of MARCH in the year of  
~~Nineteen Hundred and~~ Two Thousand and Three

**BETWEEN** the Owner's Agent: Board of Education of Montgomery County  
(Name and address) Montgomery County Public Schools

and the Contractor as Construction Manager: Yeshiva of Greater Washington, Inc.  
(Name and address) or its designee

The Project is: Montgomery Hills Junior High School Tenant Improvements  
(Name and location) 2010 Linden Lane  
Silver Spring, MD 20910

The Architect is: Moseley Architects  
(Name and address)

\* In this Document A101, the term "Owner" shall mean the Owner and/or the Owner's Agent. The term "Contractor" shall mean Yeshiva of Greater Washington, Inc. or its designee functioning as the Construction Manager on this Project. See Supplemental Conditions. The Owner and Contractor agree as set forth below.

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**ARTICLE 1**  
**THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

**ARTICLE 2**  
**THE WORK OF THIS CONTRACT**

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, ~~or as follows:~~

**ARTICLE 3**  
**DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**3.1** The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

A notice to proceed shall be issued after Owner receives the signed Contract, Right of Entry Agreement, Insurance Certificate, and Bond.

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

**3.2** The Contractor shall achieve <sup>/Contract</sup> Substantial Completion of the entire Work not later than July 15, 2004, subject to the terms of this Agreement, including Section 4.4 of the Supplemental Conditions attached hereto. *(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)*

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)*

**ARTICLE 4**  
**CONTRACT SUM**

**4.1** The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of Nine Million Eight Hundred and 00/100XX Dollars (\$ 9,800,000.00), subject to additions and deductions as provided in the Contract Documents.

**4.2** ~~The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:~~

*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)*

See Supplemental Conditions.

**4.3** Unit prices, if any, are as follows:

**ARTICLE 5**  
**PROGRESS PAYMENTS**

**5.1** Based upon Applications for Payment submitted to the ~~Architect~~<sup>Owner</sup> by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

**5.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, ~~XXXX~~<sup>XXXX</sup> follows:

Applications for Payment shall be on AIA Form G702 (1983 Edition)

**5.3** Provided an Application for Payment is received by the ~~Architect~~<sup>Owner</sup> not later than the tenth (10th) day of a month, the Owner shall make payment to the Contractor not later than the thirtieth (30th) day of the same month. If an Application for Payment is received by the ~~Architect~~<sup>Owner</sup> after the application date fixed above, payment shall be made by the Owner not later than ten (10) business days after the ~~Architect~~<sup>Owner</sup> receives the Application for Payment.

**5.4** Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the ~~Architect~~<sup>Owner</sup> may require. This Schedule, ~~when approved by the Architect~~, shall be used as a basis for reviewing the Contractor's Applications for Payment.

**5.5** Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

**5.6** Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

**5.6.1** Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the Schedule of Values, ~~less retainage~~<sup>percent</sup> (~~XXXXXX~~ %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

**5.6.2** Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), ~~less retainage~~<sup>percent</sup> (~~XXXXXX~~ %);

**5.6.3** Subtract the aggregate of previous payments made by the Owner; and

**5.6.4** Subtract amounts, if any, for which the ~~Architect~~<sup>Owner</sup> has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

**5.7** The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

**5.7.1** ~~Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to~~ percent (~~XXXX~~ %) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims; and

**5.7.2** Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

**5.8** ~~Reduction or limitation of retainage, if any, shall be as follows:~~

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*  
See Supplemental Conditions.

## **ARTICLE 6**

### **FINAL PAYMENT**

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; ~~and (2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:~~

- 6.1 Final Payment shall be made when: (a) a use and occupancy permit for Montgomery Hills has been issued; (b) Yeshiva has vacated Belt, and (c) Yeshiva has moved to Montgomery Hills.
- 6.2 The amount of the Final Payment shall be the Stipulated Sum less the aggregate of previous payments by Owner.

## **ARTICLE 7**

### **MISCELLANEOUS PROVISIONS**

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 ~~Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~

*(Insert rate of interest agreed upon, if any.)*

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

7.3 Other provisions: See Supplemental Conditions.

## **ARTICLE 8**

### **TERMINATION OR SUSPENSION**

- 8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.
- 8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

**ARTICLE 9**  
**ENUMERATION OF CONTRACT DOCUMENTS**

- 9.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:
- 9.1.1** The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101, 1987 Edition.
- 9.1.2** The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.
- 9.1.3** The Supplementary and other Conditions of the Contract are those ~~set forth in the Project Manual and~~ attached hereto. (Exhibit A) ~~and as follows:~~

Document	Title	Pages
----------	-------	-------

- 9.1.4** The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:  
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
Specifications (2 Volume Project Manual)	Montgomery Hills Jr. High School	
Modification Prepared by Moseley Architects, P.C.	(December 18, 2002)	

**9.1.5** The Drawings are as follows, and are dated

unless a different date is shown below:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

**Number**

**Title**

**Date**

Construction Drawings (2 Volumes) prepared by Moseley Architects, P.C.  
(December 19, 2002)

**9.1.6** The Addenda, if any, are as follows:

**NUMBER**

**DATE**

**PAGES**

Exhibit B      Schedule of Values

Exhibit C      Application and Certificate for Payment - AIA Document G702

Exhibit D      Right of Entry and Indemnification Agreement

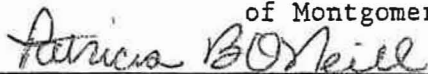
Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

**9.1.7** Other documents, if any, forming part of the Contract Documents are as follows:

*(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

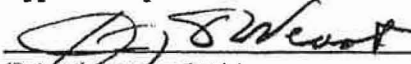
This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER'S AGENT: Board of Education  
of Montgomery County



(Signature) Patricia B. O'Neill, President

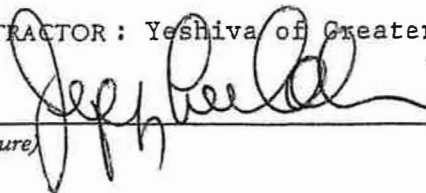
Approved by:



(Printed name and title)

Dr. Jerry D. Weast, Superintendent of Schools

CONTRACTOR: Yeshiva of Greater Washington, Inc.



(Signature)

JEFFREY LEE COHEN, PRESIDENT

(Printed name and title)

March 28, 2003

**SUPPLEMENTAL CONDITIONS**

**SUPPLEMENT TO AIA DOCUMENT A101  
STANDARD FORM OF AGREEMENT BETWEEN  
OWNER AND CONTRACTOR WHERE THE BASIS  
OF PAYMENT IS A STIPULATED SUM (1987 EDITION)**

**GENERAL**

This Supplement is intended to modify AIA Document A101, *Standard Form of Agreement Between Owner and Contractor Where the Basis of Payment is a Stipulated Sum*, 1987 Edition ("Agreement") between the Board of Education of Montgomery County as Owner's Agent and The Yeshiva of Greater Washington, Inc. ("Construction Manager" or "Yeshiva") for the Tenant Improvements Project at Montgomery Hills Junior High School ("Project").

The Project involves the construction of certain Tenant Improvements ("Tenant Improvements") generally defined in the Construction Plans and Specifications prepared by Mosely Architects, P.C. ("Architect") to the building known as the Montgomery Hills Junior High School ("MHJH") located at 2010 Linden Lane, Silver Spring, Maryland ("Facility" or "Premises"), which is a property owned by Montgomery County, Maryland ("County"). The County has appointed the Board of Education of Montgomery County, governing body of the Montgomery County Public Schools (collectively referred to as "MCPS") to serve as the Owner's Agent ("Owner's Agent") to oversee the construction of the Improvements. Through this Agreement, MCPS has engaged Yeshiva to serve as the construction manager to perform/oversee the construction of the Tenant Improvements.

Yeshiva agrees to serve as the Construction Manager at risk to construct the improvements for a Fixed Price known as the "Stipulated Sum" to cover all costs of materials, labor, administration, permits, as well as the construction fees. The parties have agreed on a Stipulated Sum to be paid to Yeshiva as set forth herein. Yeshiva represents it has the skill and expertise to construct the Project for the Stipulated Sum. The parties further agree that Yeshiva as Construction Manager has no duty for the preconstruction or design phases of the Project, but may provide input to the Architect and Owner's Agent as necessary.

It is understood that the Stipulated Sum represents the agreed upon value of the improvements made by the Construction Manager to Belt Middle School, Wheaton, Maryland ("Belt"). At the Owner's request, Construction Manager will be abandoning its improvements at Belt so Owner can reclaim that school. Any and all changes, additions and deletions to the construction and architectural plans, drawings, and specifications for the Project are allowed at the sole option of the Construction



Manager and shall not be subject to the approval of Owner, provided the Construction Manager performs the construction in conformance with Montgomery County codes. The Construction Manager may, at its sole option, use architects other than Moseley Architects. The Construction Manager has the right to adjust the Schedule of Values to conform to changes in the Work.

## **ARTICLE 1**

### **GENERAL PROVISIONS**

#### **1.3 TIME IS OF THE ESSENCE**

The Construction Manager and Owner understand and agree that time is the essence of this Agreement. The Owner/Owner's Agent will rely upon the Construction Manager's timely performance of services according to the Project Completion Schedule.

#### **1.4 PROCEDURE**

When the services under this Agreement include contract administrator services, the General Conditions of the Contract for Construction shall be the AIA Document A201 1987 Edition, with the terms of this Supplement having precedence.

## **ARTICLE 2A**

### **COST OF THE WORK**

#### **2.1 COST OF THE WORK**

The term "Cost of the Work" shall mean the cost necessarily incurred by the Construction Manager in the proper performance of the Work. Such work shall include the normal costs of constructing the Tenant Improvements, including but not limited to the following:

- i. Labor costs, including the wages of construction workers and the salaries of the construction manager, supervisory and administrative personnel engaged in the performance or support of the Work;
- ii. The Construction Manager's overhead and general expenses;
- iii. The Construction Manager's costs for tax, insurance, assessments and benefits required by law or bargaining agreements including the customary fringe benefits based on the wages and salaries as described above;
- iv. The cost of materials and equipment incorporated into the completed construction;

- v. The cost of other materials and equipment, temporary facilities and related items.
- vi. Fees, building permits, inspection costs, testing and laboratory costs; and
- vii. The cost of repairing damaged or nonconforming work.

## **2.2 ACCOUNTING RECORDS**

The Construction Manager shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control system shall be satisfactory to the Owner. The Owner and the Owner's accountant shall be afforded access to the Construction Manager's records, books, correspondence, instruction, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data related to this Project, and the Construction Manager shall preserve these for a period of three years after final payment, or such longer period as may be required by law.

## **ARTICLE 4**

### **CONTRACT SUM**

#### **4.2 STIPULATED SUM**

The Owner and Construction Manager have agreed on a Stipulated Sum of 9.8 MILLION DOLLARS to complete the Tenant Improvements set forth in the Drawings and Specifications for the Project. The Stipulated Sum includes the Cost of the Work, the CM's fee and all contingencies and other costs that are needed to complete the Tenant Improvements.

#### **4.3 ADDITIONS TO STIPULATED SUM**

The Owner will not be responsible for any costs beyond the Stipulated Sum to complete the Work described in the Project Drawings and Specifications except for the following:

- a. Work beyond that described in the Plans and Specifications that is added at the Owner's request; and
- b. The cost of asbestos removal work that exceeds Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00). Construction Manager shall first give written notice to the Owner of the need for additional asbestos removal. If Construction Manager provides documentation to justify the need and requirements for additional asbestos removal work, the Owner agrees, at Construction Manager's discretion, (i) to contract for said work and pay the contractors directly for the additional asbestos removal work, or (ii) to reimburse the Construction Manager for its additional costs for asbestos removal work.

#### **4.4 PAYMENTS**

In consideration for its receipt of the monthly payments in accordance with the terms of this Agreement, the Construction Manager agrees to vacate the property known as Belt Junior High School ("Belt") no later than July 15, 2004, subject to the terms of this Section. Construction Manager agrees and hereby does accept responsibility for obtaining partial occupancy permits for the Montgomery Hills Junior High School from the Montgomery County Office of Permitting Services if the Tenant Improvements are not completed by July 15, 2004, subject to the terms of this Section. Construction Manager acknowledges and agrees that it will vacate the Belt Junior High School Facility no later than July 15, 2004 regardless of the state of completion of the improvements being constructed under this Agreement at MHJH, unless the improvements are not complete due to delays caused by Owner's Agent. The July 15, 2004 deadline shall be extended by one day for each day (a) after April 30, 2003 that Construction Manager receives its demolition permit, (b) after April 30, 2003 that Construction Manager receives its permit to remove asbestos from the Property, (if such permit is necessary) and (c) for each day after June 1, 2003 that Construction Manager receives its full building permit. In addition, Construction Manager shall not be required to vacate the Belt Junior High School facility unless (i) a valid lease has been executed by Yeshiva of Greater Washington, Inc. ("Yeshiva") and Montgomery County, Maryland granting Yeshiva the right to occupy Property by June 1, 2004, and (ii) such lease has been approved by the applicable authorities, including the Montgomery County Council and the Maryland Board of Public Works, and (iii) there exists no legal or judicial impairments to Yeshiva's occupancy of the Property. If the Construction Manager does not receive its building permit by June 1, 2003, the Yeshiva shall not be required to vacate Belt before January 31, 2005.

### **ARTICLE 7**

#### **MISCELLANEOUS PROVISIONS**

##### **7.3 INSPECTIONS OF THE WORK: CONDITION TO FINAL PAYMENT**

Owner will not inspect the Work. All inspections will be performed by Montgomery County through the permitting process. Construction Manager/Yeshiva will be responsible for ensuring that all County required inspections are performed timely and that all permit requirements are fulfilled. Copies of permit approvals will be submitted to the Owner's Agent. As a condition to receipt of Final Payment under Paragraph 6.2, Construction Manager shall sign a certification that it has complied with all inspections required by the permit process.

##### **7.4 DISPUTE RESOLUTION FOR CONSTRUCTION**

###### **7.4.1 PROCEDURE**

Any claim, dispute or other matter in question arising out of or related to this Agreement shall be resolved through the final, binding procedure set forth herein. If such matter relates to or is the subject of a lien arising out of the Construction Manager's services, the Owner may proceed in accordance with applicable law to comply with the Lien Notice or filing deadlines prior to resolution of the matter by this process. Claims or disputes arising out of this Agreement shall be filed in

writing with the affected parties within thirty (30) days of the occurrence or incident forming the basis of the claim or dispute. The parties shall adhere to a three-step procedure intended to achieve

an expeditious and cost-saving resolution of the claim, dispute, or other matter in question. By mutual agreement, the parties may waive negotiation and mediation and proceed to an evidentiary hearing.

## **7.4.2 NEGOTIATION**

Either party may initiate negotiation proceedings by writing a certified Notice Letter to the other party setting forth the particulars of the claim, dispute, or controversy and a suggested resolution of the problem. The recipient of the Notice Letter must respond in writing within ten (10) business days with an explanation and response to the proposed solution. If the correspondence does not resolve the claim or dispute within ten (10) business days of the recipient's answer, the parties or their representatives shall meet in a bona fide attempt to resolve the matter.

## **7.4.3 MEDIATION**

### **7.4.3.1**

In the event that the claim or dispute is not resolved by informal negotiation within thirty (30) days of the original Notice Letter, either party may request mediation of the dispute or claim.

### **7.4.3.2**

The parties shall mutually agree on the selection of a former judge or neutral attorney to serve as the mediator. who shall confer with the parties in an effort to encourage the parties to achieve a common, mediated solution to the claim or dispute.

### **7.4.3.3**

The mediation shall commence within twenty-one (21) business days of the request for mediation and shall continue until the case is resolved or until such time as the mediator makes a finding that there is no possibility of resolution without referring the matter to an evidentiary hearing.

### **7.4.3.4**

The parties shall share the mediator's fee and expenses equally. Mediation conferences shall be held in Montgomery County unless the parties mutually agree otherwise. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

## **7.4.4 EVIDENTIARY HEARING**

Should any claim or dispute remain between the parties after completion of the informal negotiation and mediation, then the matter shall be referred to an impartial hearing officer designated by the Owner.

#### **7.4.4.1**

The hearing officer shall conduct an evidentiary hearing on the relevant issues, rule on motions and matters of any kind whether of fact or of law, apply the evidentiary rules generally applicable to administrative proceedings, and report a written decision which shall be binding on the parties. The hearing officer's decision shall be final, and judgment may be entered upon it in accordance with applicable law in a court of competent jurisdiction.

#### **7.4.4.2**

Owner and Construction Manager hereby agree that each shall have the right to discovery as part of the evidentiary hearing process in order to become familiar and evaluate the nature of the claim(s), the basis for the claim(s), and the relevant documents. The scope of the discovery and disclosure shall be determined by agreement between the parties. If the parties are unable to agree, then the hearing officer shall determine the scope of discovery and disclosure. No party shall be allowed a greater scope of discovery and disclosure than the other party. If the Construction Manager exercises its rights under the Maryland Public Information Act or similar legislation, the Owner shall then be entitled to full and complete discovery of all records, documents, and magnetic media of the Construction Manager, its Consultants, and Subcontractors.

### **7.5 GOVERNING LAW**

This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of Maryland.

### **7.6 WAIVER**

No waiver by the Owner of any breach of any condition, term or covenant contained herein shall operate as a waiver of the condition, term or covenant itself or of any subsequent breach thereof.

### **7.7 SEVERABILITY**

In the event any provision(s) of this Agreement are deemed to be illegal or unenforceable, such provision(s) shall be considered severable and the remaining provisions shall remain in force and effect.

### **7.8 AGREEMENT**

This Agreement represents the full and complete understanding of the parties and may not be varied or amended without a writing signed by the Construction Manager and the Owner's agent.

## **ARTICLE 10**

### **PROTECTION OF PERSONS AND PROPERTY**

The Construction Manager shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of this Agreement.

The Construction Manager shall take reasonable precautions for the safety of employees and subcontractors performing the Work and the protection of materials and equipment, all in accordance with the Contract Documents.

## **ARTICLE 11**

### **INSURANCE AND BONDS**

#### **11.1 INSURANCE REQUIRED OF THE CONSTRUCTION MANAGER**

During all phases of the Project, the Construction Manager shall purchase and maintain insurance as set forth in Paragraph 11.1 of AIA Document A201. Such insurance shall be written for not less than the following limits, or greater if required by law:

##### **11.1.1 WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY**

Worker's Compensation and Employers' Liability meeting statutory limits mandated by State and Federal laws. If (1) limits in excess of those required by statute are to be provided or (2) the employer is not statutorily bound to obtain such insurance coverage or (3) additional coverages are required, additional coverages and limits for such insurance shall be as follows:

Bodily injury by accident - \$250,000;  
Bodily injury by disease - \$250,000 each employee; and  
Bodily injury by disease - \$500,00 policy limits.

##### **11.1.2 COMMERCIAL GENERAL LIABILITY**

Commercial General Liability including coverage for Premises-Operations, Independent Contractors' Protection, Products Completed Operations, Contractual Liability, Personal Injury, and Broad Form Property Damage (including coverage for Explosion, Collapse and Underground hazards)

Three Million Dollars (\$3,000,000) each occurrence, General Aggregate, Personal and Advertising Injury, Completed Operations

- .1 The policy shall be endorsed to have the General Aggregate apply to this Project only.



- .2 Products and Completed Operations insurance shall be maintained for a minimum period of at least 180 days following Contract Completion or final payment, whichever is earlier.
- .3 The Contractual Liability insurance shall include coverage sufficient to meet the obligations in AIA Document A201.

### **11.1.3 AUTOMOBILE LIABILITY**

Automobile Liability (owned, non-owned and hired vehicles) for bodily injury and property damage:

One Million Dollars (\$1,000,000)

### **11.1.4 RENOVATION FLOATER**

The Construction Manager shall provide a renovation floater on all risk replacement cost coverage basis against all perils to protect the Owner, the Owner's Agent, the Construction Manager and its subcontractors. The policy shall endorse a Completed Value Form, Demolition and Clearing clause and extra expense coverage. The policy must name Montgomery County government and MCPS as lost payees. Minimum coverage: \$5 million.

### **11.1.5 ADDITIONAL INSURED**

The Montgomery County government and MCPS shall be named as additional insureds and certificate holders on the general liability policies and as lost payees on property policies. The Construction Manager's policies must provide for forty-five (45) days written notice to the Additional Insureds of cancellation or material change of the policies.

## **11.2 INSURANCE REQUIRED OF OWNER**

During the Project, the Owner (Owner's Agent) shall maintain insurance coverage on the Property through a program of self-insurance/risk management in the following amount: Property Insurance - \$5 million. Within 10 days of the execution of this Agreement, Owner shall provide Construction Manager with a certificate of self-insurance evidencing coverage.

### **11.3.1 BOND**

The Construction Manager shall provide a Payment and Material bond from a surety licensed and approved to do business in Maryland for at least 50 percent (50%) of the amount to be paid under the Contract. In lieu of a Payment and Material Bond, Construction Manager may post a Cash Bond in an interest bearing account. The account shall be subject to withdrawals by Owner or Owner's agent if: (1) any contractor, supplier, materialman has filed a claim, complaint, or petition to establish a mechanic's lien against the Property and (2) at least thirty (30) days has elapsed since the filing and Yeshiva has not caused such claim, complaint, or petition to be dismissed or satisfied.

#### **11.4 INDEMNIFICATION**

In accordance with the Contract Documents, the Construction Manager shall indemnify and hold harmless the Owner and the Owner's agent, employees and representatives from and against all claims, damages, losses, and expenses, including reasonable attorneys fees, arising out of or resulting from performance of the Work, except to the extent arising out of the negligence of the Owner or its authorized agents. The Construction Manager shall perform the Work in a professional manner so that the Tenant Improvements are constructed in conformance with Montgomery County codes. Construction Manager shall require all subcontractors to give evidence of insurance coverages to protect the Construction Manager, Owner and Owner's agent from damages, compensation, and benefits due to bodily injury, sickness, disease, or death, or injury or destruction of tangible property.

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**EXHIBIT B****SCHEDULE OF VALUES**

<b><u>Description of Work</u></b>	<b><u>Scheduled Value</u></b>
Heating, Ventilation, Air Conditioning	\$ 1,100,000
Electrical	\$ 1,200,000
Roof	\$ 400,000
Plumbing	\$ 500,000
Sprinkler	\$ 300,000
Ceilings	\$ 300,000
Windows	\$ 200,000
Doors and Hardware	\$ 400,000
Partitions	\$ 700,000
Demolition	\$ 200,000
architecture and Engineering	\$ 200,000
Computer and Cabling	\$ 400,000
Elevator	\$ 400,000
Sitework	\$ 1,000,000
Painting	\$ 300,000
Flooring	\$ 400,000
Miscellaneous	\$ 600,000
Supervision	\$ 400,000
Overhead	\$ 600,000
Asbestos Removal	\$ 200,000
<b>TOTAL</b>	<b>\$ 9,800,000</b>

# APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702 (Instructions on reverse side) PAGE ONE OF PAGES

TO (OWNER):

PROJECT:

APPLICATION NO:

Distribution to:

☐ OWNER

☐ ARCHITECT

☐ CONTRACTOR

FROM (CONTRACTOR):

VIA (ARCHITECT):

ARCHITECT'S

☐

PROJECT NO:

☐

CONTRACT FOR:

CONTRACT DATE:

## CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY		
Change Orders approved in previous months by Owner		DEDUCTIONS
TOTAL		
Approved this Month		
Number	Date Approved	
TOTALS		
Net change by Change Orders		

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: \_\_\_\_\_ Date: \_\_\_\_\_

## ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM ..... \$ \_\_\_\_\_
2. Net change by Change Orders ..... \$ \_\_\_\_\_
3. CONTRACT SUM TO DATE (Line 1 ± 2) ..... \$ \_\_\_\_\_
4. TOTAL COMPLETED & STORED TO DATE ..... \$ \_\_\_\_\_  
(Column G on G703)
5. RETAINAGE:
  - a. \_\_\_\_ % of Completed Work \$ \_\_\_\_\_  
(Column D + E on G703)
  - b. \_\_\_\_ % of Stored Material \$ \_\_\_\_\_  
(Column F on G703)
 Total Retainage (Line 5a + 5b or  
Total in Column I of G703) ..... \$ \_\_\_\_\_
6. TOTAL EARNED LESS RETAINAGE ..... \$ \_\_\_\_\_  
(Line 4 less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR  
PAYMENT (Line 6 from prior Certificate) ..... \$ \_\_\_\_\_
8. CURRENT PAYMENT DUE ..... \$ \_\_\_\_\_
9. BALANCE TO FINISH, PLUS RETAINAGE ..... \$ \_\_\_\_\_  
(Line 3 less Line 6)

State of:

County of:

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Notary Public:

My Commission expires: \_\_\_\_\_

AMOUNT CERTIFIED ..... \$ \_\_\_\_\_

(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT:

By: \_\_\_\_\_ Date: \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

# INSTRUCTION SHEET

AIA DOCUMENTS G702a/G703a

## A. GENERAL INFORMATION:

AIA Document G702, *Application and Certificate for Payment*, is to be used in conjunction with AIA Document G703, *Continuation Sheet*. These documents are designed to be used on a project where a Contractor has a direct Agreement with the Owner. Procedures for their use are covered in AIA Document A201, *General Conditions of the Contract for Construction*, 1976 edition.

## B. COMPLETING THE G702 FORM:

After the Contractor has completed AIA Document G703, *Continuation Sheet*, summary information should be transferred to AIA Document G702, *Application and Certificate for Payment*.

The Contractor should sign the form, have it notarized and submit it, together with G703, to the Architect.

The Architect should review it and, if it is acceptable, complete the Architect's Certificate for Payment on this form. The completed form should be forwarded to the Owner.

## C. COMPLETING THE G703 FORM:

**Heading:** Complete the information here consistent with similar information on AIA Document G702, *Application and Certificate for Payment*.

**Columns A, B & C:** These columns should be completed by identifying the various portions of the project and their scheduled value consistent with the schedule of values submitted to the Architect at the commencement of the project or as subsequently adjusted. The breakdown may be by sections of the Work or by Subcontractors and should remain consistent throughout the Project. Multiple pages should be used when required.

**Column C:** should be subtotaled at the bottom when more than one page is used and totaled on the last page. Initially, this total should equal the original Contract Sum. The total of column C may be adjusted by Change Orders during the project.

**Column D:** Enter in this column the amount of completed Work covered by the previous application. This is the sum of columns D and E from the previous application. Values from column F (Materials Presently Stored) from prior payments should not be entered in this column.

**Column E:** Enter here the value of Work completed until the time of this application, including the value of materials incorporated in the project which were listed on the previous Application and Certificate for Payment under Materials Presently Stored (column F).

**Column F:** Enter here the value of Materials Presently Stored for which payment is sought. The total of the column must be recalculated at the end of each pay period. This value covers both materials newly stored for which payment is sought and materials previously stored which are not yet incorporated into the Project. Mere payment by the Owner for stored materials does not result in a deduction from this column. Only as materials are incorporated into the Project is their value deducted from this column and incorporated into column E (Work Completed-This Period).

**Column G:** Enter here the total of columns D, E and F. Calculate the percentage completed by dividing column G by column C.

**Column H:** Enter here the difference between column C (Scheduled Value) and column G (Total Completed and Stored to Date).

**Column I:** This column is normally used only for contracts where variable retainage is permitted on a line-item basis. It need not be completed on projects where a constant retainage is withheld from the overall contract amount.

**Change Orders:** Although Change Orders could be incorporated by changing the schedule of values each time a Change Order is added to the Project, this is not normally done. Usually, Change Orders are listed separately, either on their own G703 form or at the end of the basic schedule. The amount of the original contract adjusted by Change Orders is to be entered in the appropriate location on the G702 form.

## D. MAKING PAYMENT

The Owner should make payment directly to the Contractor based on the amount certified by the Architect on AIA Document G702, *Application and Certificate for Payment*. The completed form contains the name and address of the Contractor. Payment should not be made to any other party unless specifically indicated on this form.

## AIA DOCUMENT G703 (Instructions on reverse side) PAGE OF PAGES

ARCHITECT'S PROJECT NO:

[illegible]

# INSTRUCTION SHEET

AIA DOCUMENTS G702a/G703a

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Exhibit C

TERMINATION  
FEE OFFSET

<u>Year</u>	<u>Offset</u>
2004	\$ 1,710,000.00
2005	1,755,210.00
2006	1,800,625.71
2007	1,846,152.62
2008	1,891,686.15
2009	1,937,110.89
2010	1,982,299.72
2011	2,027,112.98
2012	2,071,397.53
2013	2,114,985.67
2014	2,157,694.16
2015	2,199,322.99
2016	2,239,654.21
2017	2,278,450.60
2018	2,315,454.32
2019	2,350,385.36
2020	2,382,940.03
2021	2,412,789.24
2022	2,439,576.73
2023	2,462,917.13
2024	2,482,394.00
2025	2,497,557.59
2026	2,507,922.59
2027	2,512,965.70
2028	2,512,122.95
2029	2,504,787.02
2030	2,490,304.25
2031	2,467,971.52
2032	2,437,032.90
2033	2,396,676.15
2034	2,346,028.94
2035	2,284,154.84
2036	2,210,049.08
2037	2,122,634.04
2038	2,020,754.45
2039	1,903,172.32

EXHIBIT D

2040	1,768,561.46
2041	1,615,501.82
2042	1,442,473.32
2043	1,247,849.41
2044	1,029,890.18
2045	786,735.05
2046	516,395.04
2047	216,744.51
2048	0

## EXHIBIT D



# EXHIBIT E

YESHIVA OF GREATER WASHINGTON  
2010 Linden Lane  
Silver Spring, Maryland

## TRANSPORTATION MANAGEMENT PLAN

The Transportation Management Plan (TMP) for the Yeshiva of Greater Washington provides strict guidelines and policies for managing the following elements of the school transportation system:

- Access and Circulation
- School Transportation Coordinator
- Carpool Operations
- Queue Management Mechanisms
- Parking Policies
- Delivery and Service Vehicles
- Overall Safety Considerations
- Enforcement and Community Coordination
- Special Events Management
- Initial Assessment

The following sections present the specific guidelines for each component of the TMP.

Initially, two separate schools will be using the building: (1) Yeshiva of Greater Washington Girls School (YGW), and (2) Torah School of Greater Washington (TSGW). YGW will occupy space predominantly on the east (Rookwood/Second Avenue) side of the building, and TSGW will occupy space predominantly on the west (Brookville Road) side of the building.

### Access and Circulation

- Access to the site will be provided via two roads: (1) Brookville Road, with two access points to the campus: (a) the **Brookville North Access** (entering at the Northwest corner of the campus and exiting at the Northeast corner of the campus) and (b) **Brookville South Access** (entering and exiting at the Southwest corner of the campus), and (2) Rookwood Road, with one access point to the campus: the **Rookwood Access** (entering at the Southeast corner of the campus and exiting at the Northeast corner of the campus).
- Turns into the Brookville North Access, Brookville South Access and Rookwood Access are allowed at all times. However, the parking lot on the south side of the school will be blocked to prevent through traffic. This will prevent school users and non-users from using the south parking lot as a "cut-through." Such blockage also serves safety purposes as traffic is prevented from interfering with students and staff accessing the playfields on the south side of the campus. Signs will be posted at the Rookwood Access indicating private property with access by authorized vehicles only.
- Primary Uses of the Three Access Points:

- Brookville North Access will be used for limited visitor parking, drop off and pick up outside of regular carpool hours, and for auxiliary TSGW afternoon carpool pickup if needed to reduce congestion in the Brookville South Access parking lot.
- Brookville South Access will be the primary access for TSGW carpools and TSGW staff, and for all vehicles of YGW and TSGW staff and students intending to park in the main parking lot at the southwest corner of the property.
- Rookwood Access will be the primary access for YGW carpools and YGW staff, and for loading dock deliveries at the back of the school.
- No school-associated off-site vehicle stopping (except for turning movements), waiting, or queuing on Brookville Road, Rookwood Road or Linden Lane is to occur at any time.
- Only one-way circulation is provided from the Rookwood Access and the Brookville North Access (both of which will exit at the Northeast corner of the campus). Two-way circulation is provided from the Brookville South Access (with vehicles forming a queue counterclockwise through the parking lot and, if possible, the paved courts, on the Southwest corner of the campus).

#### **School Transportation Coordinator**

- YGW will provide a minimum of one staff member (the School Transportation Coordinator (STC)), whose responsibility is to manage and implement the Transportation Management Plan at the school.

#### **Carpool Operations**

- The STC will be responsible for implementing the school ridesharing promotions program to encourage more carpooling, for managing and monitoring the school carpool operations, and for overall transportation management at the school.
- The STC will promote carpooling by using address information to identify clusters of families that are close enough to each other to form a carpooling group. Once these groups are identified, the STC will contact the families to actively encourage these formations. The STC will stress the convenience factor and the traffic reduction impacts as benefits to carpooling. In addition, the STC will distribute school directories for parents to peruse to form their own carpooling groups. This process will be initiated prior to the school year and will be continued throughout the school year.
- No carpool pick-up, drop-off, parking or stacking operations will be allowed on Brookville Road, Rookwood Road or Linden Lane. All motorists associated with the YGW and TSGW will be informed of these policies. The proposed site configuration will accommodate all pick-up, drop-off, parking or stacking operations on-site.
- During the AM period, faculty and staff will be requested to arrive at least 20 minutes before morning classes begin in order to prevent congestion during the peak AM drop-off period. YGW classes will begin at approximately 8:15 AM, and TSGW classes begin at approximately 8:15 AM for Grades 1-6, and at approximately 9:15 AM for Grade K.

Such times will be subject to adjustment, with consideration given to the effects that time changes could have on traffic flow.

- During the PM period, faculty and staff will be requested to depart at least 20 minutes after afternoon classes are completed in order to prevent congestion during the peak PM pick-up period. YGW classes end at approximately 4:50 PM, and TSGW classes end at approximately 3:30 PM or 4:45 PM, depending on grade level and day of the week. On Fridays, YGW classes end at approximately 12:30 PM, and TSGW classes end at approximately 2:00 PM or 3:30 PM. Such times will be subject to adjustment, with consideration given to the effects that time changes could have on traffic flow. The staggering of class times both in the AM and the PM should help alleviate traffic congestion.
- Some students and staff will remain after normal school hours due to their participation in after-school enrichment programs.

#### **Queue Management Mechanisms**

- During the AM peak hour, vehicles can enter the site via any entrance following the traffic patterns discussed above. Students will be discharged from the side of the vehicle providing the most efficient and quickest exit, with appropriate regard given to the safety of students and motorists.
- During the PM peak hour, vehicles can enter the site via any entrance following the traffic patterns discussed above. Students will be asked to enter vehicles from the side of the vehicle providing the most efficient and quickest entrance, with appropriate regard given to the safety of students and motorists.
- Initially, approximately 4 staff members will manage the queue and carpool operations. The STC will monitor the utilization of these staff members to efficiently manage the operations and adjust the number of these staff members accordingly throughout the year.
- As the afternoon queue begins to develop, parents will have the option of waiting in their vehicles or utilizing the parking area to park and walk in to pick up their children.
- If the afternoon queue threatens to back up to Brookville Road or Rookwood Road, then all vehicles that arrive will be required and directed to park in the parking areas or the queue lines will be widened to two cars abreast.
- Without the paved courts, the Brookville South Access parking lot can accommodate approximately 20 vehicles in a queue. With the paved courts, the Brookville South Access parking lot could accommodate approximately 36 vehicles. The Brookville North Access is also available for additional queuing, and can accommodate approximately 10 vehicles. TSGW estimates that the average number of vehicles in the queue at the Brookville South Access will be 16, and the maximum number of vehicles in the queue at any one time will be 30.
- The alley on the east side of the Building (entering from the Rookwood Access) can accommodate approximately 25 vehicles in a single-file queue, and approximately 50 vehicles in a double-file queue. YGW estimates that the average number of vehicles in

the queue will be 16, and the maximum number of vehicles in the queue at any one time will be 24.

- The parking areas surrounding the school can accommodate approximately 133 parked vehicles. This includes spaces in presently marked spaces and unmarked spaces along the access lanes on the north and east sides of the building. If the paved courts are used for parking, the parking areas could accommodate a total of approximately 157 parked vehicles. YGW and TSGW estimate that the maximum number of parking spaces they currently use is 114, and the typical number of spaces being used during school hours is approximately 100.
- Based on the numbers described above, the total number of vehicles that can be accommodated with these queue and parking components is 213 vehicles (or 253 vehicles if the paved courts are used for parking and queuing). It is expected that the peak AM and PM queues can be easily accommodated with these several components of the parking, carpool and queue management systems.
- In the rare event that the queues extend beyond the access entrances and the parking spaces are completely filled, motorists will be directed to queue on the south side of the building (which will normally be blocked off for safety reasons), then, if necessary, to the playing fields. This additional stacking could accommodate an additional 40 vehicles. In addition, if absolutely necessary, the playing field can accommodate more than 100 additional parked vehicles.

#### **Parking Policies**

- Adequate parking is provided to meet the projected daily parking demands of faculty/staff, parents, students and visitors driving to the school.
- Parking for faculty/staff, parents, students and visitors will not be permitted on Brookville Drive, Rookwood Road and Linden Lane at any time.
- During the AM peak period, faculty and staff will be requested to arrive and park at least 20 minutes prior to the commencement of their school's classes.
- During the PM peak period, faculty and staff will be requested to depart at least 20 minutes after the end of their school's classes.
- Faculty and staff will be required to park in the employee parking areas and not leave during the peak PM carpool operations.
- On-site overnight parking of vehicles is discouraged. No more than 5 such vehicles shall be allowed to park overnight on-site on a temporary basis. Any such vehicles storage on-site is to be limited to areas that are effectively screened by trees, portions of the building, or fences.

#### **Delivery and Service Vehicles**

- All deliveries shall be scheduled to occur outside the school's AM and PM peak periods.

- Refuse collection shall also be scheduled to occur outside the school's AM and PM peak periods.
- Large item delivery requiring a loading dock and refuse collection shall be directed to access the school via Rookwood Road. Small item delivery (e.g., UPS, U.S. Mail, vending machine suppliers) will be directed to use the Brookville North Access. Very few delivery and service providers are expected on any given day.

#### **Overall Safety Considerations**

- YGW will coordinate with Montgomery County Department of Public Works and Transportation (MCDPW&T) or Maryland-National Capital Park and Planning Commission (M-NCPPC) to install appropriate school zone signs, no parking signs, and other appropriate signage.
- YGW and TSGW will provide staff on-site in appropriate locations at the school to manage the AM and PM carpool operations.
- Crosswalks within the site will be installed to promote clear pedestrian paths across the main internal campus roadway to the parking areas.
- All pick-up and drop-off operations will occur on-site at the curb along the building, where possible, and on the side of the vehicle that is most efficient and quickest, with appropriate regard given to the safety of students and motorists.

#### **Enforcement and Community Coordination**

- Each year, YGW and TSGW will distribute notices to parents requiring them to obey local traffic laws and the schools' carpool and parking policies and to follow the TMP. Disregard of the carpool and parking policies or the TMP will result in a conference with the head of the school. In addition, the loading or unloading of children from school grounds directly to cars parked or stopped on Brookville Road, Rookwood Road or Linden Lane is strictly prohibited. An initial violation of this rule will result in a mandatory conference with the head of the school. A second intentional infraction of this rule will be grounds for expulsion.
- YGW shall initiate the formation of a "Neighborhood Council," which will meet on at least a quarterly basis to discuss and monitor issues related to the school and the neighboring community in the first year of operation. The "Neighborhood Council" would consist of YGW representatives, neighborhood representatives, representatives of neighboring institutions, and, if necessary, representatives from MCDPW&T and/or M-NCPPC.
- If requested, YGW will send an annual report of compliance with the TMP to the M-NCPPC and the community.
- The STC will be the primary point of contact for all traffic and parking related community issues. The STC will maintain a log of calls and correspondence regarding all traffic and parking related community issues. This information will be provided to

YGW Board of Directors on a regular basis, and the Board of Directors shall take appropriate action to address any outstanding traffic and parking issues.

- YGW will give advance notice to the neighborhood committee of unusually large school events scheduled at the school.

### **Special Events Management**

- It is expected that there will be few large events that will occur at YGW requiring special provisions to accommodate traffic and parking needs. Currently, the Back-to-School Nights and other similar events at YGW and TSGW occur on different nights, and this staggering will be continued at the new location.
- It is unlikely that the school building and facilities will be rented out for non-school events.
- The playing field will not be lighted to discourage evening use of the facility.
- In the event an unusually large event does occur at the school, and the schools estimate that on-site parking will be insufficient to accommodate all potential motorists, parking on-site will be allocated to parents on a rotating basis prior to the school event, with priority for vehicles bringing multiple children. Parents without permission to park at the school will be directed before the event to an off-site facility, where they will be shuttled to and from the school. These events would occur rarely and would be planned well in advance to serve the anticipated vehicular demand. For these events, parking directors would be on site to manage the parking operations and circulation.

### **Initial Assessment**

- During the first 30 school days after school opening, YGW is to fully assess on-site peak hour vehicular operations in order to ensure full compliance with the Transportation Management Plan. If necessary, YGW is to undertake additional management and operational steps as may be necessary to assure reasonably prompt compliance with the TMP, which may include, but not necessarily be limited to, one or more of the following: (1) adjustments to the queuing plan; (2) additional on-site staff to manage morning and afternoon queuing; (3) use of non-paved lot areas for queuing and related parking (e.g., the playing fields); (4) changes in arrival and dismissal times (increased staggering of student arrival and departures); (5) enhanced efforts to increase student per vehicle ratios; (6) modification of vehicular management operational requirements for parents (instructions to drivers); (7) use of vans and buses; and (8) use of off-site satellite areas.